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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR    | ATTORNEY DOCKET NO.               | CONFIRMATION NO. |
|---|-------------|-------------------------|-----------------------------------|------------------|
| 10/668,301  | 09/24/2003  | Tomohiro Azami          | 25724                             | 3824             |
| 20529 7590 01/24/2007<br>NATH & ASSOCIATES<br>112 South West Street<br>Alexandria, VA 22314 |             |                         | EXAMINER<br>SWEARINGEN, JEFFREY R |                  |
|   |             |                         | ART UNIT<br>2145                  | PAPER NUMBER     |
| SHORTENED STATUTORY PERIOD OF RESPONSE<br>3 MONTHS  |             | MAIL DATE<br>01/24/2007 | DELIVERY MODE<br>PAPER            |                  |

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/668,301

Applicant(s)

AZAMI, TOMOHIRO

Examiner

Jeffrey R. Swearingen

Art Unit

2145

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 9/25/03, 8/30/06, 9/5/06.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Specification***

1. The disclosure is objected to because it contains an embedded hyperlink and/or other form of browser-executable code. Applicant is required to delete the embedded hyperlink and/or other form of browser-executable code. See MPEP § 608.01.
2. A substitute specification in proper idiomatic English and in compliance with 37 CFR 1.52(a) and (b) is required. The specification submitted appears to be a literal machine translation of the original Japanese document. The substitute specification filed must be accompanied by a statement that it contains no new matter.

### ***Claim Rejections - 35 USC § 112***

3. Claims 1-28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
4. The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.
5. The terms "higher", "highest", and "lower" in claims 3, 5, 9, 11, 18, 20, 24, 26 are relative terms which render the claims indefinite. The terms are not defined by the claims, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. One of ordinary skill in the art is unable to ascertain what is meant by a higher or lower node in the given context.

### ***Claim Rejections - 35 USC § 102***

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6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-28 are rejected under 35 U.S.C. 102(b) as being anticipated by Aaker et al. (US 5,815,516).

8. In regard to claims 1, 7, 12-16, 22, 27-28, Aaker disclosed:

*receiving means for receiving the fragment data and the fragment configuration information and outputting them; column 3, lines 33-45*

*fragment data storing means for storing the fragment data output from said receiving means; column 3, lines 33-45*

*structured data storing means for storing the structured data; column 3, lines 33-45 and*

*structured data concatenating means for concatenating predetermined fragment data, read from said fragment data storing means, into the structured data read from said structured data storing means, based on the position information and the reference information included in the fragment configuration information output from said receiving means. Column 3, lines 42-45*

As best understood from the current translation, Applicant claimed the alteration and insertion of a packet header to a packet, which is taught in Aaker.

9. In regard to claims 2, 8, 17, 23, Aaker disclosed:

*said position information is position information having information specifying a node in the structured data and information specifying a connection position of the corresponding fragment data in relation to the specified node. Column 5, lines 15-34*

10. In regard to claims 3, 9, 18, 24, Aaker disclosed:

*the information specifying the connection position of the corresponding fragment data in relation to the specified node is*

*either information specifying a position, which is at the same level as that of the specified node in relation to a node that is one level higher than that of the specified node and which immediately precedes the specified node, as the connection position of a highest node of the corresponding fragment data,*

*or information specifying a position, which is a position at one level lower than that of the specified node and which is the last node at the lower level, as the connection position of the highest node of the corresponding fragment data. column 4, lines 42-47*

11. In regard to claims 4, 10, 19, 25, Aaker disclosed:

*wherein the reference information has information on contents of the corresponding fragment data and*

*wherein said structured data concatenating means concatenates the fragment data into the structured data, said fragment data being determined to be concatenated based on the information on the contents. Column 4, lines 49-56, where the header is based upon the checksum of the packet.*

12. In regard to claims 5, 11, 20, 26, Aaker disclosed:

*wherein the reference information includes information on a name of a highest node of the corresponding fragment data and*

*wherein said structured data concatenating means processes the position information based on the information on the name of the highest node. Column 4, lines 49-56*

13. In regard to claims 6, 21, Aaker disclosed:

*wherein the fragment configuration information has information on a method for processing the fragment data*

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*wherein, for a part of the fragment data, fragment update data is received instead of the fragment configuration information corresponding to the fragment data, said fragment update data being created by adding the information on the fragment data processing method and the position information on a connection position in the structured data to the fragment data, column 5, lines 47-65*

*wherein said receiving means receives the fragment data, the fragment configuration information, and the fragment update data and outputs them and column 5, lines 41-46*

*wherein, based on the information on the processing method included in the fragment update data output from said receiving means, said structured data concatenating means also has a function that concatenates the fragment data, included in the fragment update data, into the structured data. column 5, lines 35-46*

#### **Claim Rejections - 35 USC § 101**

14. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

15. Claims 14 and 15 rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 14 and 15 are computer programs, which are software *per se* and are not patentable unless embodied on a computer-readable medium. See Annex IV of the Interim Guidelines for Determining Statutory Subject Matter.

#### **Conclusion**

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Coggeshall

US 6,961,336 B2

Slater et al.

US 6,654,796 B1


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Chandramenon, Girish et al. "Trading Packet Headers for Packet Processing." Proceedings of the Conference on Applications, technologies, Architectures, and Protocols for Computer Communication. ACM Press, 1995. pp. 162-73.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey R. Swearingen whose telephone number is (571) 272-3921. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Cardone can be reached on 571-272-3933. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Jason Cardone  
Supervisory Patent Examiner  
Art Unit 2145